



Appeal Decision

Site visit made on 12 August 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2022

Appeal Ref: APP/W1850/W/22/3297193

Bath Street, Hereford HR1 2HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchinson Networks (UK) Ltd against the decision of Herefordshire Council.
 - The application Ref 213379, dated 29 August 2021, was refused by notice dated 28 October 2021.
 - The development proposed is described as 'Proposed 20.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require that regard be given to the development plan. I have had regard to the policies of the Hereford Local Plan Core Strategy 2011 – 2031 (adopted 2015) (the Local Plan) and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are:
 - The effect of the siting and appearance of the proposal on nearby designated heritage assets; and
 - Whether any harm caused would be outweighed by the need for the installation in the proposed location, having regard to the potential availability of alternative sites.

Reasons

Heritage Assets

5. The appeal site is part of a grass verge running along the side of Bath Street, located within a visually prominent location, between sections of pavement and alongside a busy carriageway that forms a main vehicle route around Hereford city centre.
6. The site lies just outside the line of Hereford's medieval city wall but within the Central Hereford Conservation Area (CA). The CA is extensive, encompassing Hereford's historic city core. It comprises a complex townscape of buildings, many of which are of a high architectural quality and historic importance. Buildings within the city are from several periods and are constructed using a rich palette of materials. Accordingly, the character of the CA is diverse. However, from the information before me I find that the significance of the CA, as a whole, stems from its early medieval (Anglo-Saxon) origins and its historic development as a fortified, cathedral city, whilst having largely preserved its historic urban grain.
7. The proposed development would comprise a 20m high monopole to which antennas would be attached, along with associated ground level equipment cabinets.
8. As well as being located within the CA, the site lies within the boundary of the Hereford City Walls, Ramparts and Ditch Scheduled Ancient Monument (SAM)¹, which is a nationally important heritage asset. The SAM consists of both the above ground element of the city wall that remain standing, as well as buried archaeological remains of the defence. The city wall standing immediately adjacent to the appeal site is approximately 4m high and extends to approximately 6m in height nearby. Historic England has advised that the walls in this location are the product of centuries of adaption to the original medieval city wall, with the lowest levels continuing to incorporate original medieval fabric, while upper sections have been modified and rebuilt in the post-medieval period. Due to the importance of the wall defences to the city's origins and historic past, the SAM is also intrinsically linked to the significance of the CA.
9. It is recognised that the SAM forms part of a living, evolving, city, such that it is seen alongside more modern development and paraphernalia that is typical of urban areas. However, the proposal would project substantially above the adjacent medieval wall and would be a dominant feature that would be intrusive and discordant when viewed in juxtaposition with the SAM.
10. I have also had regard to the urban, commercial environment within which the appeal proposals would sit. However, the proposed monopole would be substantially taller and bulkier than existing street lighting, road traffic signs or street furniture located within the vicinity of the site. Although sited near to a large, mature tree, the proposal would be considerably higher, such that the tree would offer little meaningful screening to the proposal. Consequently, the monopole would appear as a rather stark and jarring structure despite its surrounding context.

¹ National Heritage List for England 1005528

11. Overall, due to the monopole and antenna's siting, scale and appearance, the proposal would harm the setting and significance of the SAM. Given the importance of the SAM to the significance of the CA, the development proposal would also result in harm to the character and appearance of the CA. In both cases, the harm would be less than substantial.
12. The location of the proposal also lies within the designated Hereford Area of Archaeological Importance (AAI), which is nationally important in terms of archaeological interest. The archaeological interest derives from the buried archaeological remains of the SAM.
13. Concerns have been raised by Historic England and the Council's archaeological advisor regarding the likely detrimental effects of the proposal on buried archaeological remains. I have received no substantive evidence to indicate to the contrary, with no archaeological assessment or evaluation having been submitted in this case. In the absence of information to demonstrate otherwise, I conclude that the development, due to its siting, has the potential to harmfully affect archaeological heritage assets. It is considered that the level of harm to the AAI would also be less than substantial.
14. Whilst not forming part of the original reason for refusal, the Council has also raised concerns with regards to the potential effect of the proposal on the setting of several listed buildings nearby, this includes the Grade II* Church of St Peters and Church of All Saints, the Grade II* Town Hall and the Grade II* Shire Hall.
15. On my site visit it was particularly evident that the spire of the Church of St Peters was a prominent feature across much of the city centre's townscape. The significant and special interest of this Church derives from its stature, architectural design and detailing, along with its historic role as a social and spiritual focal point within Hereford. The Church spire is clearly visible from the streetscene surrounding the appeal site and provides distinctive and attractive views. There is also a clear interrelationship between the Church and the SAM, with the Church sat within the city defences contributing to the history and character of Hereford. As such, the city wall forms an important part of the setting of this listed building.
16. The proposed development would detract from the views of the Church spire, across the SAM, in this part of Bath Street. The focus of such view would also shift from the historically important Church spire to the incongruous and dominant proposed monopole and antenna. Accordingly, the proposal is also considered to harm the setting of the Grade II* Church of St Peters. The level of harm is considered to be less than substantial.
17. Additionally, due to the overall height of the proposed development it would rise significantly above the majority of the surrounding built form, such that there is likely to be a significant degree of intervisibility between the proposed development and other nearby listed buildings identified by the Council. No substantive evidence has been provided by the appellant to demonstrate the likely effects of the development upon these wider listed buildings (e.g. townscape visual impact assessment or heritage assessment). I therefore cannot rule out further harmful effects to the setting of other listed buildings.

18. Together, the proposed siting and appearance of the development, would have a harmful effect on the setting of the CA, SAM, AAI, and the setting of a listed building.
19. Based on the above, the proposal would conflict with Local Plan Policy LD4, which requires development proposals to protect, conserve and where possible enhance heritage assets and their settings. It would also conflict with the Framework, in respect of policies that seek to give great weight to the conservation of designated heritage assets.
20. As identified, the harm to each of the heritage assets is deemed to be less than substantial. In applying the balancing act of Framework paragraph 202, this harm should be weighed against the public benefits of the proposal. I recognise the potential social and economic benefits that would be provided by the improved coverage and capacity that the proposal would provide. The support that is provided by Paragraph 114 of the Framework to advanced, high quality and reliable communications infrastructure, including 5G networks, is also acknowledged. However, these benefits would not outweigh the harm to heritage assets that would arise in connection to the siting and appearance of the proposal. I find therefore that the proposal would fail to preserve or enhance the character or appearance of the heritage assets.

Benefits and Availability of Alternative Locations

21. Balanced against the above identified harm, the proposal would provide a valuable enhancement to digital communications, improving both coverage and capacity of 5G technology, for residents and businesses in the surrounding locality. Paragraph 114 of the Framework advises that advanced, high quality and reliable communication infrastructure is essential for economic growth and social well-being. It further advises that planning decisions should support the expansion of electronic communications networks including next generation technology (such as 5G).
22. Paragraph 117 of the Framework further identifies that applications for electronic communication development (including applications for prior approval under the GDPO) should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this should include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure.
23. Evidence has been provided by the appellant to demonstrate that a sequential approach has been followed, with the upgrading of existing sites or sharing of telecommunications structures shown not to be feasible/available within the necessary cell search area. No substantive arguments have been put forward by the Council to counter the need for a new antenna site.
24. It is recognised that the cell search area for the proposal is constrained in nature. Nevertheless, the appellant has put forward several alternative sites in the surrounding area that were considered for the development proposal but discounted. However, there is little information before me to establish how the alternative sites were selected. As such, I am not convinced that the information before me demonstrates that an exhaustive examination of the cell search area has been undertaken. Furthermore, whilst the appellant has set out reasons why the identified alternative sites are deemed unviable, there is a general lack of detailed analysis to support the appellant's findings.

25. Based on the evidence before me, it has not been proven that less harmful alternative sites are not available.

Other Matters

26. The scale of the proposed monopole is indicated by the appellant as being the minimum necessary to meet its technical requirements. It nevertheless remains that it is of a size, appearance and siting that would result in harm to the identified heritage assets.
27. The appellant has indicated a willingness to accept a condition in relation to the finish colour of the development, so it may more appropriately harmonise with its surroundings. Whilst this may lessen the overall impact, it is not considered that the concerns regarding the monopole's height, design or effects on heritage assets would be overcome by a specific finishing colour. In any case, the GPDO does not provide any specific authority for imposing additional conditions other than standard conditions set out in Class A.
28. The appellant has referred to a lack of response to its pre-application enquiry and that the local planning authority (LPA) did not suggest any alternative sites for the proposal. It is unclear whether the appellant undertook a formal pre-application enquiry, however, the submitted application form and case officer's report indicate otherwise. In any case, I do not consider the lack of a response impacts on the merits of the appeal proposal.

Planning Balance and Conclusion

29. The siting and appearance of the proposal would result in harm to designated heritage assets. In line with the Framework, the harm to designated assets is a matter to which I attached great weight. Furthermore, there is insufficient evidence to demonstrate that there are no alternative sites, which would cause less harm to designated heritage assets.
30. For the reasons given above, I conclude that the appeal should be dismissed.

Lewis Condé

INSPECTOR